

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Whitney Beber	Team: Squad #8	CCRB Case #: 201804756	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/12/2018 7:30 PM, Wednesday, 06/13/2018	Location of Incident: [REDACTED]	Precinct: 106	18 Mo. SOL 12/12/2019	EO SOL 12/12/2019	
Date/Time CV Reported Tue, 06/12/2018 11:06 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 06/12/2018 11:06 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. An officer			106 PCT
2. Officers			106 PCT
3. SGT Peter Segerdahl	00553	934719	106 PCT
4. POM Matthew Peters	25160	934461	106 PCT
5. POM Thomas Mcardle	22771	962595	106 PCT
6. POM Joseph Morgante	26895	953142	106 PCT
7. POM Stephen Giustino	29372	954868	106 PCT
8. POM Vladimir Alonzo	27966	957329	106 PCT
9. SGT Thomas Sorrentino	5635	943835	106 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Timothy Bivona	25712	945514	106 PCT
2. POM Mark Ferranola	26512	899204	106 PCT
3. POM Dominick Perfetto	10178	940572	106 PCT
4. POM Kieran Casey	02867	963435	106 PCT
5. POM Marc Waskowitz	22130	962867	106 PCT
6. POM Anthony Gozzi	21721	959670	106 PCT
7. POM Matthew Haggerty	20158	958672	106 PCT
8. POM Kwayne Leonce	20464	963115	106 PCT
9. POM Royce Poblete	14930	949494	106 PCT
10. POM Vincent Greco	16300	951787	106 PCT
11. POF Lauren Magalee	19155	958855	106 PCT
12. POM Donovan Devaney	22112	959595	106 PCT
13. POF Michelle Walls	18571	962158	106 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
14. POM Ali Chowdhury	13994	955819	106 PCT
15. POM Thomas Doran	25977	963968	106 PCT
16. POM Berk Sonmez	23652	958075	106 PCT
17. POF Jacklyn Dowd	13182	963493	106 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: On June 12, 2018, officers entered § 87(2)(b)	
B.POM Thomas Mcardle	Abuse: On June 12, 2018, Police Officer Thomas Mcardle entered § 87(2)(b)	
C.POM Vladimir Alonzo	Abuse: On June 12, 2018, Police Officer Vladimir Alonzo entered § 87(2)(b)	
D.SGT Peter Segerdahl	Abuse: On June 12, 2018, Sergeant Peter Segerdahl entered § 87(2)(b)	
E.SGT Peter Segerdahl	Discourtesy: On June 12, 2018, Sergeant Peter Segerdahl spoke discourteously to § 87(2)(b)	
F.POM Joseph Morgante	Abuse: On June 13, 2018, Police Officer Joseph Morgante entered § 87(2)(b)	
G.POM Stephen Giustino	Abuse: On June 13, 2018, Stephen Giustino entered § 87(2)(b)	
H.SGT Thomas Sorrentino	Abuse: On June 13, 2018, Sergeant Thomas Sorrentino entered § 87(2)(b)	
I.POM Matthew Peters	Abuse: On June 13, 2018, Police Officer Matthew Peters entered § 87(2)(b)	
J.POM Thomas Mcardle	Abuse: On June 13, 2018, Police Officer Thomas Mcardle entered § 87(2)(b)	
K. Officers	Abuse: On June 13, 2018, officers entered § 87(2)(b)	
L. An officer	Force: On June 13, 2018, an officer used physical force against § 87(2)(b)	
M. An officer	Force: On June 13, 2018, an officer used physical force against § 87(2)(b)	
N. An officer	Force: On June 13, 2018, an officer used a chokehold against § 87(2)(b)	
O. An officer	Force: On June 13, 2018, an officer used physical force against § 87(2)(b)	
P. An officer	Force: On June 13, 2018, an officer used physical force against § 87(2)(b)	
Q.POM Stephen Giustino	Abuse: On June 13, 2018, Stephen Giustino frisked § 87(2)(b)	
R.POM Stephen Giustino	Abuse: On June 13, 2018, Police Officer Stephen Giustino frisked § 87(2)(b)	
S.POM Joseph Morgante	Abuse: On June 13, 2018, Police Officer Joseph Morgante frisked § 87(2)(b)	
T.POM Joseph Morgante	Abuse: On June 13, 2018, Police Officer Joseph Morgante frisked § 87(2)(b)	
U. Officers	Abuse: On June 13, 2018, officers searched § 87(2)(b)	

Case Summary

On June 12, 2018, § 87(2)(b) filed the following complaint regarding an incident that occurred on June 12, 2018, with the CCRB via the Call Processing System. On June 14, 2018, § 87(2)(b) filed the following complaint with the Internal Affairs Bureau under original complaint log number 2018-23225, regarding an incident that occurred on June 13, 2018.

On June 12, 2018, at approximately 7:30 p.m., § 87(2)(b) and his former roommate, § 87(2)(b) arrived at their residence § 87(2)(b) and encountered three individuals, one of whom allegedly had a knife, and told them that they were sent by § 87(2)(b) the landlady, to “get them out.” § 87(2)(b) called the police and when they arrived § 87(2)(b) and § 87(2)(b) explained to the officers that he resides in the building and that an individual inside was armed with a knife. § 87(2)(b) also called the police on June 12, 2018 and requested that police respond to § 87(2)(b) because the house was vacated but people were burglarizing it and squatting. § 87(2)(b) and § 87(2)(b) remained outside on the sidewalk while an officer called § 87(2)(b) and spoke to her. After speaking to § 87(2)(b) the officer told § 87(2)(b) and § 87(2)(b) that they had to leave the residence because § 87(2)(b) had given him proof that they could not reside there. Two officers entered the building while § 87(2)(b) and § 87(2)(b) remained on the sidewalk. One of the officers entered the apartment and the other “poked his head” through the doorway (**Allegations A-Abuse of Authority, § 87(2)(g)**). Police Officer Thomas Mcardle, of the 106th Precinct entered § 87(2)(b)s apartment (**Allegation B-Abuse of Authority, § 87(2)(g)**). Police Vladimir Alonzo, of the 106th Precinct, entered § 87(2)(b) (**Allegation C-Abuse of Authority, § 87(2)(g)**). § 87(2)(b) told Sergeant Segerdahl that he needed to retrieve documentation from the apartment. Sgt. Segerdahl told § 87(2)(b) to go upstairs and directed two unidentified officers to accompany § 87(2)(b) to retrieve his property. When § 87(2)(b) entered his apartment, the two officers followed in behind him (**Allegations D-Abuse of Authority, § 87(2)(g)**). § 87(2)(b) sat on his bed and refused to leave. § 87(2)(b) did not see Sgt. Segerdahl enter his apartment but saw him appear outside of his bedroom. Sgt. Segerdahl allegedly told § 87(2)(b) “Hurry the fuck up,” and “Get the fuck out of here,” repeatedly (**Allegation E-Discourtesy, § 87(2)(g)**).

On § 87(2)(b), § 87(2)(b) and § 87(2)(b) went to civil court where they obtained legal paperwork stating that they could stay at the residence. On June 13, 2018, § 87(2)(b) requested that the police go to § 87(2)(b) because squatters had broken into her home. On June 13, 2018, at approximately 10:30 p.m. in § 87(2)(b) in Queens, § 87(2)(b) was lying in his bed while § 87(2)(b) a friend of a tenant, and his cousin, § 87(2)(b) watched television in the living room, when four officers including Police Officer Joseph Morgante and Police Officer Stephen Guistino of the 106th Precinct entered the residence through a window on the first-floor apartment (**Allegation F and G-Abuse of Authority, § 87(2)(g)**). Sergeant Thomas Sorrentino, Police Officer Matthew Peters, Police Officer Mcardle, all of the 106th Precinct, and additional officers entered § 87(2)(b) (**Allegations H, I, J and K-Abuse of Authority, § 87(2)(g)**). § 87(2)(b) exited the apartment with a cellphone in hand. Once outside of his room he observed § 87(2)(b) and § 87(2)(b) all handcuffed. As he exited the bedroom, an unidentified officer allegedly grabbed the cell phone in § 87(2)(b)s hands and yanked it four to five times. He also inserted both his thumb nails into

the back of § 87(2)(b)'s hands near the wrist while trying to take the phone (**Allegation L-Force**, § 87(2)(g)). After the cellphone was taken from § 87(2)(b) he was handcuffed. An unidentified officer allegedly grabbed § 87(2)(b) from behind and pushed him (**Allegation M and N-Force**, § 87(2)(g)). An unidentified officer then allegedly struck § 87(2)(b) behind the left ear and on the left side of his face at least twice (**Allegation O-Force**, § 87(2)(g)). An unidentified officer also allegedly pushed § 87(2)(b) against the wall (**Allegation P-Force**, § 87(2)(g)). Police Officer Stephen Guistino of the 106th Precinct frisked § 87(2)(b) and Satish § 87(2)(b) (**Allegations Q and R-Abuse of Authority**, § 87(2)(g)). Police Officer Joseph Morgante frisked § 87(2)(b) and § 87(2)(b) (**Allegations S and T**). § 87(2)(b) remained handcuffed and on the ground while two officers opened the closet door, search the closet of spare bedroom, and the television stand in the living room (**Allegations U- Abuse of Authority**, § 87(2)(g)). After the officers finished searching they escorted § 87(2)(b) and § 87(2)(b) out of the apartment and down the stairs. An unidentified officer escorted § 87(2)(b) out of the apartment and down the stairs. An unidentified officer asked § 87(2)(b) where the documentation he mentioned earlier was and § 87(2)(b) told him they were on the floor in his bedroom. That same officer retrieved the documents. The officers asked § 87(2)(b) for his identification which he provided. After examined his identification and the court documents § 87(2)(b) was unhandcuffed and was told that he was legally allowed to be in the building.

No summons was issued and no arrest was made. No video footage was obtained for this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: On June 12, 2018, officers entered § 87(2)(b).

Allegation (B) Abuse of Authority: On June 12, 2018, Police Officer Thomas Mcardle entered § 87(2)(b).

Allegation (C) Abuse of Authority: On June 12, 2018, Police Officer Alonzo entered § 87(2)(b).

Allegation (D) Abuse of Authority: On June 12, 2018, Sergeant Peter Segerdahl entered § 87(2)(b).

Allegation (E) Discourtesy: On June 12, 2018, Sergeant Peter Segerdahl spoke discourteously to § 87(2)(b).

As per § 87(2)(b)'s telephone statement on June 12, 2018, at approximately 7:30 p.m. he entered § 87(2)(b) in Queens, he was encountered by an individual who “pulled a knife on” him. § 87(2)(b) called the police, and when officers arrived they told § 87(2)(b) that he and his friends could not reside in the building because the land lady stated that she had not rented to them. § 87(2)(b) spoke to Sergeant Segerdahl about documents he needed to retrieve from the apartment for an appointment the following morning. When he went into his apartment to retrieve these documents, Sergeant Segerdahl entered into his apartment behind him and told § 87(2)(b) to “Get the f- out of here.” When asked what specifically Sgt. Segerdahl said to him, § 87(2)(b) stated that he could not recall the officers’ exact wording and was not comfortable misrepresenting his statements. § 87(2)(b) was then escorted out of the building by officers.

As per § 87(2)(b)'s sworn statement on June 12, 2018, at approximately 7:30 p.m., § 87(2)(b) and his former roommate, § 87(2)(b) arrived at their residence § 87(2)(b) and encountered three individuals, one of whom had a knife, who told them that they were there on behalf of the landlady, § 87(2)(b) to "get them out." § 87(2)(b) called the police. Police officers arrived to the location and § 87(2)(b) and § 87(2)(b) explained to the officers that an individual had a knife inside and that they both resided in the building. An officer went up the exterior stairs while the rest of the officers, § 87(2)(b) and § 87(2)(b) remained outside on the sidewalk. An officer spoke to the individual there on behalf of § 87(2)(b). After speaking to § 87(2)(b) the officer told § 87(2)(b) and § 87(2)(b) that they had to leave the residence because § 87(2)(b) had given him proof that they should not reside there. Two officers entered the building while § 87(2)(b) and § 87(2)(b) remained on the sidewalk. One of the officers entered § 87(2)(b) and the other "poked his head" through the doorway but otherwise did not enter the apartment. § 87(2)(b) told Sergeant Segerdahl that he needed to retrieve documentation from the apartment. Sgt. Segerdahl told § 87(2)(b) to go upstairs and directed two unidentified officers to accompany § 87(2)(b) to retrieve his property. When § 87(2)(b) entered his apartment, the two officers followed in behind him. § 87(2)(b) sat on his bed and refused to leave. § 87(2)(b) did not see Sgt. Segerdahl enter his apartment however he appeared outside of his bedroom, and tell § 87(2)(b) "Hurry the fuck up," and "Get the fuck out of here," repeatedly.

§ 87(2)(b)'s sworn statement is largely consistent with § 87(2)(b)'s statements with the following exceptions. On June 12, 2018, the male individual who took out the knife gestured to an officer that he could enter the residence. That officer as well as other officers checked the units on the first floor. He did not see if they went to the second floor. He saw the officers "poke their head in" and "glimpse" around the apartment. He did not see anyone enter his unit.

As per Sgt. Segerdahl on June 12, 2018, he and Police Officer Thomas Mcardle, responded to a burglary in progress § 87(2)(b) reported by § 87(2)(b) (Board Review 01). Upon arriving Sgt. Segerdahl discovered that there was a vacate order on the house. Sgt. Segerdahl spoke to § 87(2)(b) who stated he was aware of the order. Sgt. Segerdahl asked if § 87(2)(b) had another place to stay. § 87(2)(b) stated that he did. Sgt. Segerdahl asked § 87(2)(b) if he needed anything from his apartment. § 87(2)(b) stated he had medication inside and Sgt. Segerdahl instructed a few officers to escort § 87(2)(b) to the top floor apartment to recover his medication and some clothes. Sgt. Segerdahl did not remember which officers he sent with § 87(2)(b). Sgt. Segerdahl sent officers to escort § 87(2)(b) for safety reasons because of loose wires in the building, the vacate order, and to remove the potential for § 87(2)(b) to barricade himself inside. Sgt. Segerdahl did not go with § 87(2)(b) to retrieve his belongings. Sgt. Segerdahl did not know if the officers that escorted § 87(2)(b) entered his apartment and there was no conversation about whether officers could enter § 87(2)(b)'s apartment. Sgt. Segerdahl did not hear any officers use profanity when speaking to § 87(2)(b). He did not hear an officer tell him to "hurry the fuck up and get the fuck out of here," and he did not make these statements. Sgt. Segerdahl did not use any profanity when speaking to § 87(2)(b). Neither he nor any other officer made physical contact with § 87(2)(b) during this incident.

As per PO Mcardle both he and Sgt. Segerdahl entered the building § 87(2)(b) on June 12, 2018, to investigate the possibility of a burglary in progress (Board Review 02). He went to the second floor and gained the permission of the residents upstairs to enter the apartments on the second floor. The residents retrieved some property and then exited willingly. PO Mcardle did not observe any officers inside of the building when there were no civilians inside the building. Outside of the building, approximately 15 minutes before everyone left, Sgt. Segerdahl ordered officers to escort the residents back inside the building to retrieve anything they would need for the night. PO Mcardle did not know which officers returned inside. PO Mcardle did not hear any officer use profanity while speaking to any civilian. He did not hear any officer say, “Hurry the fuck up,” or “Get the fuck out of here,” and he did not make these statements to § 87(2)(b).

As per PO Peters, on June 12, 2018, no officers entered the building, including PO Peters (Board Review 03). He did not use profanity when speaking to a civilian, nor did he hear any other officer do so. PO Peters did not hear an officer say, “Hurry the fuck up,” or “Get the fuck out of here,” to a civilian and he did not do so himself.

As per Police Officer Perfetto, on June 12, 2018, he did not see any officers enter the building and stated that no one went inside the building that day (Board Review 04). He did not get out of the vehicle once on the scene.

As per PO Alonzo, on June 12, 2018, when he arrived it had been established that there was no burglary in progress, but it was rather a landlord and tenant dispute (Board Review 05). PO Alonzo never learned of any officers having previously entered the building prior to his arrival. PO Alonzo acknowledged entering the building because officers were talking to the people on the first floor. He stood in between the doorway and the front steps/staircase inside of the building. The people on the first floor gave them permission to enter by opening the door to talk to them but did not provide verbal permission to enter. PO Alonzo did not know which officer besides PO Rivera entered the building, and did not see officers enter a second-floor apartment. PO Alonzo did not hear any officer use profanity when speaking to civilians on that day.

The event type for EVENT #§ 87(2)(b) was for a burglary in progress (Board Review 06). The event information sheet noted that the male caller stated a male was threatening him and that there was someone with a knife at the location.

According to People v. McBride, 14 N.Y. 3d 440 (2010), (Board Review 07) an officer may enter a private residence without a warrant or consent in the presence of exigent circumstances, which is determined by the following factors: (1) the gravity or violent nature of the offense with which the suspect is to be charged; (2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause...to believe that the suspect committed the crime; (4) strong reason to believe that the suspect is in the premises being entered ; (5) likelihood that the suspect will escape if not swiftly apprehended; (6) and the peaceful circumstances of the entry.

In Brigham City v. Stuart, 547 U.S. 398, the court stated that one exigency obviating the requirement of a warrant is the need to assist persons who are seriously injured or threatened with such injury (Board Review 21).

It is undisputed that officers responded to radio call for a burglary. § 87(2)(b) described having explained to the officers who arrived that someone had a knife inside of the building prior to the initial officers entering the building of § 87(2)(b). As per PO Mcardle's own statement, he entered the upstairs apartment, prior to Sgt. Segerdahl instructing officers to accompany § 87(2)(b). PO Mcardle also stated that he entered for the purposes of investigating a burglary.

§ 87(2)(g)

At the time PO Alonzo stated he entered § 87(2)(b), it had been established that there was no burglary in progress but it was a landlord and tenant dispute. § 87(2)(g)

At the time Sgt. Segerdahl sent officers to accompany § 87(2)(b) after the first set of officers had entered and after Sergeant Segerdahl had spoken to § 87(2)(b) it had been established that this incident was a landlord tenant dispute and not a burglary. Sgt. Segerdahl stated that he sent officers with § 87(2)(b) because of the vacate order, for safety reasons, and to prevent any possibility of § 87(2)(b) barricading himself inside. § 87(2)(g)

It is undisputed the Sgt. Segerdahl and § 87(2)(b) spoke. However, while § 87(2)(b) stated that Sgt. Segerdahl told him to "Hurry the fuck up," and "Get the fuck out of here," Sgt. Segerdahl denied making those statements or using any profanity when speaking to § 87(2)(b). The other officers were consistent that they did not hear any officer use profanity when speaking to a civilian. § 87(2)(g)

Allegation (F) Abuse of Authority: On June 13, 2018, Police Officer Joseph Morgante entered § 87(2)(b) § 87(2)(b)

Allegation (G) Abuse of Authority: On June 13, 2018, Police Officer Stephen Guistino entered § 87(2)(b) § 87(2)(b)

Allegation (H) Abuse of Authority: On June 13, 2018, Sergeant Thomas Sorrentino entered § 87(2)(b) § 87(2)(b)

Allegation (I) Abuse of Authority: On June 13, 2018, Police Officer Matthew Peters entered § 87(2)(b) § 87(2)(b)

Allegation (J) Abuse of Authority: On June 13, 2018, Police Officer Thomas Mcardle entered § 87(2)(b) § 87(2)(b)

Allegation (K) Abuse of Authority: On June 13, 2018, officers entered § 87(2)(b) § 87(2)(b)

As per § 87(2)(b)'s telephone statement, on June 13, 2018, § 87(2)(b) went to court and obtained documents stating that he could reside at his apartment. He also obtained a court summons to issue his land lady. At approximately 10:30 p.m. he was with a friend in his apartment when approximately 12 officers arrived.

As per § 87(2)(b)'s sworn statement, on June 13, 2018, at approximately 10:30 p.m., § 87(2)(b) was lying in his bed while § 87(2)(b) an unknown friend of a tenant, and his cousin, § 87(2)(b) watched television in the living room, when four officers, including Police Officer Morgante, Police Officer Guistino and two other unidentified officers entered the residence through a window on the first-floor apartment.

As per § 87(2)(b)'s telephone statement he was watching television in the living room of § 87(2)(b)'s second floor apartment. The front door was open. PO Guistino, PO Morgante and two other unidentified officers entered the apartment. The officers asked what § 87(2)(b) and § 87(2)(b) were doing in the house and then told them that they could not be there. § 87(2)(b)'s sworn statement was consistent as it pertains to these allegations. He added in his sworn statement that the officers announced themselves as police and told § 87(2)(b) "§ 87(2)(b) and "§ 87(2)(b) to exit the unit with their hands up. The officers proceeded to enter and handcuff them all.

As per § 87(2)(b)'s telephone statement on June 13, 2018, he walked out into the second-floor hallway where officers asked him what he was doing in the house and handcuffed him. § 87(2)(b) was escorted from § 87(2)(b)'s apartment.

On June 13, 2018 Sgt. Segerdahl, PO Mcardle, PO Guistino, PO Morgante, PO Alonzo, PO Peters, PO Perfetto and Sgt. Sorrentino responded to 111-58 114th Street for a burglary in progress.

On June 13, 2018, Sgt. Segerdahl received another call about a burglary in progress at the same location from the landlord who stated that someone had broken into the building and was not supposed to be there. Police Officer Morgante and Police Officer Guistino entered the building through an open window on the first floor and went to the second floor before he arrived.

As per Police Officer Mcardle, on June 13, 2018, he and Sgt. Segerdahl responded to a burglary in progress at the same location. Upon arriving, officers had not yet gained entry to the residence when they arrived. Officers gained entry through a window and allowed Sgt. Segerdahl and PO Mcardle entry into the house. When PO Mcardle went to the second floor he saw three residents handcuffed and standing. He did not remember if he saw any officers enter the apartments upstairs but he did not do so himself. He did not observe any officer search the apartment and he did not do so himself.

As per Police Officer Guistino, when they looked up to the second floor, there were individuals in the window (Board Review 12). PO Guistino told them to come down but they did not comply. PO Guistino believed the individuals saw them and then turned off the light and walked away. PO Guistino and PO Morgante knocked on the front door and announced themselves as police and commanded that someone “open up.” No one responded. Sgt. Segerdahl instructed PO Guistino and PO Morgante to enter through a window. Once inside, PO Guistino announced that it was the police and ordered that the people upstairs come down. No one replied or came down. PO Guistino and PO Morgante went to the second floor.

PO Morgante’s statement was consistent with PO Guistino’s with the following exceptions (Board Review 13). Once they were inside of the building, they unlocked the front door.

As per Sgt. Sorrentino, when he arrived officers were already entering the building (Board Review 16). Sgt. Sorrentino went to the second floor to see where his anti-crime team officers were.

As per Police Officer Peters, on June 13, 2018, when he arrived officers were already inside of the building. PO Perfetto stayed outside while PO Lauren Magalee, PO Vincent Greco (of the 106th Precinct) and PO Peters entered the building. PO Peters never entered any of the rooms on the first floor. There was one male on the first floor, who they eventually brought outside. PO Peters never went to the second floor or returned inside after bringing the male outside.

As per Police Officer Perfetto, on June 13, 2018, he did not know how the anti-crime officers entered the building and he never learned. No one granted the officers permission to enter the building. PO Perfetto waited outside during the incident.

EVENT #§ 87(2)(b) was for a burglary in progress that took place on June 13, 2018, § 87(2)(b) At the time the event was opened, § 87(2)(b) stated that there were two to three people “thrashing” the place and it was unknown if there were weapons (Board Review 08).

According to People v. McBride, 14 N.Y. 3d 440 (2010), (Board Review 07) an officer may enter a private residence without a warrant or consent in the presence of exigent circumstances, which is determined by the following factors: (1) the gravity or violent nature of the offense with which the suspect is to be charged; (2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause...to believe that the suspect committed the crime; (4) strong reason to believe that the suspect is in the premises being entered ; (5) likelihood that the suspect will escape if not swiftly apprehended; (6) and the peaceful circumstances of the entry.

In Brigham City v. Stuart, 547 U.S. 398, the court stated that one exigency obviating the requirement of a warrant is the need to assist persons who are seriously injured or threatened with such injury (Board Review 21).

§ 87(2)(g)

§ 87(2)(g)

Allegation (L) Force: On June 13, 2018, an officer used physical force against § 87(2)(b)

Allegation (M) Force: On June 13, 2018, an officer used physical force against § 87(2)(b)

Allegation (N) Force: On June 13, 2018, an officer used a chokehold against § 87(2)(b)

Allegation (O) Force: On June 13, 2018, an officer used physical force against § 87(2)(b)

Allegation (P) Force: On June 13, 2018, an officer used physical force against § 87(2)(b)

Allegation (Q) Force: On June 13, 2018, an officer used physical force against § 87(2)(b)

As per his telephone statement, § 87(2)(b) grabbed his cell phone and the court documents and exited the bedroom. An unidentified officer yanked the phone in § 87(2)(b)'s hand and inserted his finger nails into the back of § 87(2)(b)'s hands to remove the cell phone. The officers took the phone and handcuffed § 87(2)(b). An unidentified officer grabbed § 87(2)(b) from behind by the back of his neck and pushed him to the ground. An unidentified officer, whom § 87(2)(b) could not see, struck him in the face an unspecified number of times. Two unidentified officers then threw § 87(2)(b) to the ground and proceeded to "beat him up," until he released the phone. An officer then escorted § 87(2)(b) outside of the building. The officers retrieved the court documents § 87(2)(b) had obtained, reviewed them, removed the handcuffs and then left.

As per his sworn statement, § 87(2)(b) exited his bedroom and walked out with his cellphone in his hand. Once outside of his room he observed § 87(2)(b) and § 87(2)(b) all handcuffed. As he exited the bedroom, an officer grabbed the cell phone in § 87(2)(b)'s hands and yanked it four to five times and inserted his thumb nails into the back of § 87(2)(b)'s hands near the wrist. After the cellphone was taken from § 87(2)(b) he was handcuffed. An unidentified officer grabbed § 87(2)(b) from behind, pushed him from behind and grabbed § 87(2)(b)'s shoulders with his fingers and his thumbs on the back of his neck. An unidentified

officer struck § 87(2)(b) behind the left ear and on the left side of his face. An unidentified officer pushed § 87(2)(b) against the wall and then down onto the ground and asked why he was resisting arrest. § 87(2)(b) was unable to describe any of the officers who used force against him beyond them being white males dressed in plainclothes. As such, these allegations were pleaded against “an officer”.

As per § 87(2)(b)'s telephone statement, § 87(2)(b) and § 87(2)(b) were handcuffed. § 87(2)(b) was talking on his cell phone, while trying to show the officers the court documents. § 87(2)(b) continued to show the officers court documents. An officer approached § 87(2)(b) tried to pull the phone away from him, grabbed the documents from him and tossed them to the floor before pushing him against a wall. After he fell to the floor, an officer got on top of § 87(2)(b) and placed his elbow on the back of his neck and squeezed it.

As per § 87(2)(b)'s sworn statement, the officers told § 87(2)(b) “§ 87(2)(b) and “§ 87(2)(b) to exit the unit with their hands up. Police Officer Morgante and Police Officer Guistino entered their unit and handcuffed “§ 87(2)(b) § 87(2)(b) and “§ 87(2)(b) § 87(2)(b) was ordered to exit his apartment which he did while holding his cell phone and some paperwork. One of the officers told § 87(2)(b) to release the cell phone. § 87(2)(b) did not comply. An officer then pulled at the cellphone and wrapped his arm around § 87(2)(b)'s neck. An officer pushed § 87(2)(b) with one hand on his shoulder and the other on his neck. The same officer then pushed § 87(2)(b) face first against a wall into the living room, propelling him downward into a chair and then onto the floor. An officer placed his knee on § 87(2)(b)'s back and pulled an arm behind his back. The officers escorted all the men except § 87(2)(b) out of the building.

As per § 87(2)(b)'s telephone statement, § 87(2)(b) walked out of his bedroom with court documents in one hand a cell phone in the other hand. An officer attempted to pull the cell phone from § 87(2)(b) pulled away from the officer and fell into a chair behind him. Another officer tried to pull the cell phone away from § 87(2)(b) An officer punched § 87(2)(b) once in his face and took the phone from him. Almost simultaneously another officer grabbed him by his hands, turned him around slammed him against the wall and handcuffed him. An officer grabbed § 87(2)(b) by the back of his neck and threw him onto the floor and placed one of his knees on § 87(2)(b)'s back.

As per PO Guistino, four individuals were handcuffed upstairs, one of whom was § 87(2)(b) PO Guistino and PO Morgante put § 87(2)(b)'s hands behind his back to handcuff him. § 87(2)(b) kept dropping to his knees and let his legs go limp. Besides going limp § 87(2)(b) moved his arms up and down from his waist to his chest. The officers did not have to use any additional force to handcuff him.

As per PO Morgante, he and PO Guistino encountered two individuals on the second floor. He and PO Guistino asked the individuals if they had anything on them. They each patted down one of the individuals and handcuffed them to properly conduct an investigation. § 87(2)(b) and another male approached them. § 87(2)(b) was told to put his hands behind his back because they were investigating an incident, but he refused to put his hands behind his back. PO Guistino and PO Morgante each grabbed one of his arms and placed his arms behind his back. § 87(2)(b)

§ 87(2)(b) kept pulling his arms forward and up and down to his upper chest. PO Guistino and PO Morgante handcuffed him.

Sgt. Segerdahl, PO Mcardle, PO Guistino, PO Morgante, PO Alonzo, PO Peters, PO Perfetto and Sgt. Sorrentino are consistent that they did not, nor did they see any officer insert their thumbnails into the back of § 87(2)(b)'s hand. The officers were consistent that they did not, nor did they see, any officer strike, push, or knee § 87(2)(b). They all denied making any contact with § 87(2)(b)'s neck or throat at any point.

PO Mcardle did not see any officer come into physical contact with a civilian and he did not do so himself.

It is disputed between officers and the civilians whether officers used any physical force besides placing his hands behind his back against § 87(2)(b) § 87(2)(g)

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Allegation (R) Abuse of Authority: On June 13, 2018, Police Officer Stephen Guistino frisked § 87(2)(b)

Allegation (S) Abuse of Authority: On June 13, 2018, Police Officer Stephen Guistino frisked § 87(2)(b)

Allegation (T) Abuse of Authority: On June 13, 2018, Police Officer Joseph Morgante frisked § 87(2)(b)

Allegation (U) Abuse of Authority: On June 13, 2018, Police Officer Joseph Morgante frisked § 87(2)(b)

As per § 87(2)(b)'s sworn statement, Police Officer Guistino patted down his front pockets and his rear pockets. Police Officer Guistino and Police Officer Morgante both patted down "§ 87(2)(b)" and "§ 87(2)(b)" but § 87(2)(b) did not see where they patted them down.

As per, PO Guistino, he did not know if all four men were patted down or which officer patted down which person. PO Guistino did not remember whether he patted anyone down. PO Guistino did not observe a bulge on any of the individuals he observed. None of the room on the first floor were entered except the room they entered through the window.

As per PO Morgante, all the individuals were patted down for safety reasons because there was a violent crime, a burglary, in progress. The pockets, ankles, and waistbands of the individuals were patted down. It was both the decision of PO Morgante and PO Guistino to pat down the individuals in to conduct the investigation. The individuals were never considered under arrest.

Sgt. Sorrentino and PO Peters did not see any handcuffed individual get patted down. PO Perfetto never learned that any of the individuals were patted down.

Stop report #2§ 87(2)(b) prepared for § 87(2)(b) by Police Officer Morgante cited the basis for the stop as the radio run for a burglary (Board Review 09). The narrative section for what led to the stop stated that officers observed occupants through the second-floor window shut off the lights and refused to come to the door. Upon arrival, the patrol supervisor advised that he was informed the building should be vacant. In the narrative section that explained the circumstances that led to the frisk, PO Morgante stated that after the light shut off and the people refused to come to the door. He believed a burglary was in progress which was a violent crime. Officers gained entry through an open window. They heard people on the second floor and issued several verbal orders to come down the stairs, all of which were ignored. Once officers arrived on the second floor they attempted to detain the occupants to conduct a proper investigation, a person of interest refused to comply with lawful orders and continued to walk-away and make furtive movements. Stop report #2§ 87(2)(b) was prepared for § 87(2)(b) (Board Review 17). PO Morgante stated that the person was frisked to ensure there were no weapons which are common in a violent crime such as a burglary. This stop report was otherwise consistent with #§ 87(2)(b).

Police Officer Guistino's memo book stated that he prepared stop report #'s § 87(2)(b) and § 87(2)(b) for § 87(2)(b) and § 87(2)(b) respectively (Board Review 11). These stop reports were consistent with those PO Morgante completed.

The New York Penal Law cites burglary in the first degree and the second degree as a violent felony on their Class B and Class C violent felony lists (Board Review 11).

In People v. De Bour, 40 N.Y. 2d 210, the court determined that an officer has the authority to frisk if the officers reasonably suspects that he is in danger or physical injury by virtue of the detainee being armed (Board Review 22).

PO Morgante and PO Guistino both cited their reason for frisking as to ensure that there were no weapons present which they cited as being common in burglaries. § 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)
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§ 87(2)(g)

The New York Penal Law considers second-degree burglary a violent felony. § 87(2)(g)

§ 87(2)(g)
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§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation (V) Abuse of Authority: On June 13, 2018, officers searched § 87(2)(b)

§ 87(2)(b)

As per § 87(2)(b)'s sworn statement, he remained handcuffed and on the ground while two white male officers dressed in plainclothes opened the closet door, searched the closet of a spare bedroom, and the television stand in the living room. After the officers finished searching they escorted § 87(2)(b) and § 87(2)(b) out of the apartment and down the stairs. An unidentified officer escorted § 87(2)(b) out of the apartment and down the stairs. An unidentified officer asked § 87(2)(b) where the documentation he mentioned earlier was and § 87(2)(b) told him they were on the floor in his bedroom. That same officer retrieved the documents. The officers asked § 87(2)(b) for his identification which he provided. After they examined his identification and the court documents, the handcuffs were removed and § 87(2)(b) was told that he was allowed to be in the building.

When Sgt. Segerdahl arrived, § 87(2)(b) and two other individuals were outside. Sgt. Segerdahl did not enter the building at any time and he did not see any officer open any closet doors or doors inside the apartment.

As per Sgt. Sorrentino, PO Guistino and PO Morgante had three men handcuffed upstairs. The officers told the men they were handcuffed because they received a call that someone was breaking into the apartment and they were trying to figure everything out. Sgt. Sorrentino stated that they did not search the apartment and only went to the kitchen area.

As per PO Peters, eventually PO Morgante and PO Guistino opened the door to the residence and brought four to five males outside who had been upstairs, at least three of whom were handcuffed. PO Peters was told to watch one of the males.

PO Perfetto did not observe any officers enter the home and stated he did not know who walked back and forth past him.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 18).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 19).
- Sergeant Segerdahl has been a member of service for 14 years and has been a subject in 10 CCRB complaints and 14 allegations, none of which have been substantiated.
- Police Officer Peters has been a member of service for 14 years and has been a subject in six CCRB complaints and 13 allegations, none of which have been substantiated.

- Police Officer Mcardle has been a member of service for two years and has been a subject of one CCRB complaint and subject of two allegations, neither of which have been substantiated.
- Police Officer Morgante has been a member of service for six years and has been a subject of three CCRB complaints and nine allegations, none of which have been substantiated.
- Police Officer Guistino has been a member of service for five years and has been a subject in one CCRB complaint and three allegations, none of which have been substantiated.
- Police Officer Alonzo has been a member of service for three years and has been a subject of four CCRB complaints and nine allegations, one of which has been substantiated.
 - Case number 201805030 involved the substantiated allegation of an entry against Police Officer Alonzo. The Board recommended Command Discipline A. The NYPD disposition is pending.
- Sergeant Sorrentino has been a member of service for 11 years and has been a subject in two CCRB complaints and four allegations, none of which has been substantiated.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 14).
- § 87(2)(b)

Squad No.: _____

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date